

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

<b>DEREK LANEY,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 4:18-CV-1575</b>
	)	
<b>v.</b>	)	<b>JURY TRIAL DEMANDED</b>
	)	
<b>CITY OF ST. LOUIS, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANTS' STATEMENTS OF UNCONTROVERTED FACT**

Defendants, City of St. Louis, and Lt. Scott Boyher. Lt. Col. Lawrence O'Toole and Charelene Deeken file these statements of uncontroverted facts in support of their motion for summary judgment. All facts asserted herein are set forth for the purposes of this motion only.

1. On September 15, 2017, the court issued a ruling in the criminal case against former St. Louis Police Officer Jason Stockley, finding him not guilty. (Doc. 45).
2. In response to that verdict, many people began to protest in downtown St. Louis. (Doc. 45)
3. Lt. Scott Boyher was the commander of the Bicycle Response Team on September 15, 2017. (Exhibit A, Dec. 8, 2020 Deposition of Scott Boyher, 28:1-28:8)
4. BRT unit, which was formed after two employees of the SLPD returned from observing the police response to the Republican National Convention in 2016. (Ex. A, Exhibit E, October 28, 2020 Deposition of Randy Jemerson, 40:13-42:2)
5. Near the time of its creation, the members of the BRT received a week-long training from an out of town training company. (Ex. A, 34:20-35:9)

6. Since that time, there have been multiple trainings, with both a field and a classroom component of the training. (Ex. A, 35:12-36:14).
7. The BRT has participated in CDT trainings, although their trainings are separate. (Ex. A, 53:10-54:15)
8. There have been training courses that have occurred since then to specifically cover the tasks of the BRT. (Ex. A, 53:10-55:11)
9. This is all in addition to the trainings that the officers received on an annual basis. Exhibit D, Lt. Boyher Training Transcript).
10. The BRT is meant for large crowd control. (Ex. A, 53:21- 54:7)
11. The BRT is not meant to be a response to civil disobedience. (Ex. A, 53:21- 54:7)
12. The BRT was created to provide a “softer touch” to a protest response. (Ex. G, 43:1-44:2)
10. On Friday the Civil Disobedience Teams (CDT) were staged in the Police Academy building on Tucker Street. (Exhibit F, Transcript of Ahmad Hearing Transcript .Volume II, 148:17-149:16)
11. On that day the protests centered on the downtown area, at one point the protests moved to the area around Clark and Tucker. (Ex. F, 148:17-149:16)
12. SLPD had brought multiple busses to this location for the purpose of taking the officers away from this location. (Ex. F, 149:19-15).
13. SLPD hoped that moving the SLPD out of the area would prevent the protest from escalating. (Ex. F, 148:17-149:16)
14. However, after CDT teams loaded the busses, protestors began to surround the busses, preventing them from leaving. (Ex. F, 149:19-150:11).

15. At various points, protestors were throwing objects at the buses. (Ex. F, 149:19-150:11; Exhibit G, Real Time Crime Center Video from 9/15/17, at 1:26:50; 1:28:15).
16. At least one of those items was hard enough to break a window on one of the busses. (Exhibit H, October 16, 2020 Deposition of Gregory Schaffer, 45:17-46:3).
17. Because assistance was needed to move the busses, and the officers on them, away from the area, the Bicycle Response Team (BRT) was called in. (Ex. A, 112:1-12, Exhibit C, January 21 2021 Sgt. Michael Marks deposition, 18:25-19:23).
18. Lt. Scott Boyher was the commander of the BRT, and arrived with the BRT. (Ex. A, 112:1-12).
19. The BRT team members had to engage a number of protestors that were locked arm-in-arm, in their attempts to keep the bike officers from moving freely. (Ex A, 131:20-132:7; Ex. C, 21:18-22:13)
20. There were also protestors that were locked arm-in-arm in an attempt to prevent the bus from moving away from the area. (Exhibit J, Documentation team video Bates Stamped CITY 000058 at 0:58).
21. At this time, Derek Laney then engaged the officers, apparently in an attempt to assist those who were preventing the busses from evacuating the CDT officers. (Exhibit B, January 6, 2021 Deposition of Derek Laney, 64:9-65:1).
22. Specifically, Mr. Laney was engaged Sgt. Michael Marks. (Ex. C, 36:22-37:7).
23. Laney stated that he wanted to tell the officers that other officers were assaulting the individuals around the front of the bus. (Ex. B, 65:15-65:21).
24. Laney was only a few yards away from the buses that the protestors were blocking. (Ex. B, 65:20-25).

25. Upon seeing Sgt. Marks struggling with Mr. Laney, and Mr. Laney not backing away from the officers, Lt. Boyher ran over to assist Sgt. Marks and deployed pepper spray. (Ex. A, 134:25-135:3).
26. The interaction can be seen on the RTCC video, beginning at 1:34:03. (Ex. A, 147:15-151:1; Ex. G, 1:34:03)
27. The pepper spraying occurs at 1:34:41. (Ex. A, 149:20-150:13; Ex. 7, 1:34:14).
28. This event was documented in the report, and a wanted was put out for Mr. Laney. (Ex. A, 125:4-11).
29. After he was sprayed, Laney backed away from the officers. (Ex. B, 68:20-69:8; Ex. J at 1:30)
30. No officer went into the crowd to try and detain or arrest Laney. (Ex. A, 126:13-21, Ex. J, at 1:30)
31. Laney was never arrested regarding this event. (Ex. A, 126:13-21)
32. Laney was never charged with this event. (Ex.A, 126:13-21).
33. Laney was met by some other protestors while in the crowd who provided him with liquid to wash the pepper spray off of his face. (Ex. B, 68:20-69:12)
34. Prior to the Stockley protests, SLPD had supervised and investigated Lt. Boyher were appropriate. (Exhibit K, Lt. Boyher IAD Profile (Under Seal)
35. City of St. Louis ordinance 4.12.030 states that the City of St. Louis adopts a self- insurance plan for injuries arising out of the negligent operation of a motor vehicle or from a dangerous condition of property. (Municipal Ordinance 4.12.030)

36. On November 20, 2019, a State of Missouri Court ruled that the PFPC is not an insurance policy under Missouri law and does not itself create a self-insurance plan. (Exhibit I, Nov. 20, 2019 Order in Case No. 7122-CC01430).

Respectfully submitted,  
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